

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
Plaintiff,
-against-
VICTOR ALVAREZ,
Defendant,
-----X

93 Cr. 181-09 (LGS)
16 Civ. 4515 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS on June 3, 2016, Defendant Victor Alvarez filed a Motion to Vacate under 28 U.S.C. § 2255 (the “Motion”) (Dkt. No. 1058)¹;

WHEREAS this matter was stayed pending the Second Circuit’s decision on Defendant’s application to file a successive § 2255 motion (Dkt. No. 1065);

WHEREAS on December 4, 2019, Defendant’s application to file a successive § 2255 petition was granted, and the stay was terminated (Dkt. No. 1147);

WHEREAS the parties agree that the Court should “amend the judgment by vacating the 924(c) conviction (Count 16) and its 60-month consecutive sentence, which will reduce the total term of incarceration from 420 months to 360 months” (Dkt. No. 1150);

WHEREAS Defendant Alvarez is currently serving the custodial term imposed in the Court’s Judgment dated January 17, 1996 and has a projected release date of April 22, 2025 (Dkt. No. 518).

WHEREAS this Court has considered the Motion and the parties’ respective arguments in support of resentencing in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *United States v. Davis*, 139 S. Ct. 2319 (2019). It is hereby

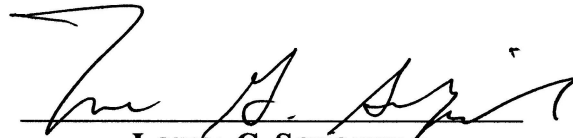
¹ All docket citations are to Case No. 93 Cr. 181-09 unless otherwise noted.

ORDERED that the Judgment dated January 17, 1996, is VACATED. An amended judgment will issue reflecting the following:

- I. A custodial term of 360 Months to be served as follows:
 - a. **240** Months on Count 1ss to run concurrently with the terms of imprisonment imposed on Counts 5ss and 15ss;
 - b. **60** Months on Count 5ss to run concurrently with the terms of imprisonment imposed on Counts 1ss and 15ss;
 - c. **120** Months on Count 6ss to run consecutively with the terms of imprisonment imposed on Counts 1ss, 5ss and 15ss;
 - d. **120** Months on Count 15ss to run concurrently with the terms of imprisonment imposed on Counts 1ss and 5ss;
 - e. Count 16ss is DISMISSED.

The Clerk of the Court is directed to close the motions at docket numbers 1058 and 1150 in 93 Cr. 181 (LGS), and to close Case No. 16 Civ. 4515 (LGS).

Dated: March 3, 2020
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE